

IDERIA WAYNE SMITH, 00607161,)
Petitioner,)
)
v.)) No. 3:06-CV-0288-H
)) ECF
NATHANIEL QUARTERMAN, Director,)
Texas Dept. of Criminal Justice, Correctional)
Institutions Division,)
Respondent.)

ORDER OF THE COURT ON THE FOREGOING RECOMMENDATION

Considering the record in this case and the above recommendation, and pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253 (c), the Court hereby finds and orders:

IFP STATUS:

(X) the party appealing is GRANTED *in forma pauperis* status on appeal.
() the party appealing is proceeding *in forma pauperis*.
() the party appealing is DENIED *in forma pauperis* status on appeal
for the following reasons:
() the Court certifies, pursuant to Fed. R. App. P. 24(a) and 28 U.S.C. § 1915 (a)(3), that the appeal is not taken in good faith. In support of this finding, the Court adopts and incorporates by reference the Magistrate Judge's Findings and Recommendation entered in this case on _____. Based upon the Magistrate Judge's findings, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous. *See Harkins v. Roberts*, 935 F. Supp. 871, 873 (S. D. Miss. 1996) (citing *Howard v. King*, 707 F. 2d 215, 219-20 (5th Cir. 1983)).
() the person appealing is not a pauper;
() the person appealing has not complied with the requirements of Rule 24 of the Federal Rules of Appellate Procedure and /or 28 U.S.C. § 1915(a)(1) as ordered by the Court.
(See Notice of Deficiency and Order entered on _____).

COA:

() a Certificate of Appealability is GRANTED on the following issues: _____
(X) a Certificate of Appealability is DENIED. The Court hereby adopts and incorporates by reference the Magistrate Judge's Findings and Recommendation filed in this case on February 2, 2007, which were adopted by the District Court on February 15, 2007, in support of its finding that Petitioner has failed to make a substantial showing that reasonable jurists could conclude that the habeas corpus petition is not barred by the statute of limitations. *See 28 U.S.C. § 2244(d); Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595, 1602, 146 L. Ed. 2d 542 (2000).

SIGNED this 11th day of June, 2007.


BAREFOOT SANDERS, SENIOR JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS